# PUBLIC ACCESS TO CONGRESSIONAL INFORMATION: THE POTENTIAL AND PITFALLS OF TECHNOLOGY ENHANCED ACCESS

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DRAFT MATERIALS

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## EXECUTIVE SUMMARY

The emerging availability of new information technologies challenges the Congress to develop a consistent and fair method of distributing Congressional information in electronic formats. Public access to congressional information is critical to the ability of citizens to monitor and evaluate the workings of government. The enhanced abilities of accessing, manipulating and analyzing information in electronic form makes it incomparable to the traditional hard copy formats. Individuals and organizations limited to traditional formats will be placed at a disadvantage. Congress has adopted a number of new technologies for recording, refining, and disseminating information within the institution, but has paid less attention to the public access aspects of electronic information. Decisions as to which information should be released in electronic form, when it should be released and how it should be released raise a number of legal and practical questions. Congress needs to decide those areas in which it wishes to give its electronic information to private vendors for distribution, those areas it prefers to subsidize information access and distribution, and those areas in which it wishes to retain a role as a vendor itself. These decisions will affect the quantity and quality of public access, the future of the Government Printing Office, and the workings of Congress itself.

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# PUBLIC ACCESS TO CONGRESSIONAL INFORMATION: THE POTENTIAL AND PITFALLS OF TECHNOLOGY ENHANCED ACCESS

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> The people are the only censors of their governors; and even their errors will tend to keep these to the true principles of their institution. To punish these errors too severely would be to suppress the only safeguard of the public liberty. The way to prevent these interpositions of the people is to give them full information of their affairs through the channel of public papers, and to contrive that those papers should penetrate the whole mass of the people. (Thomas Jefferson)

## INTRODUCTION

This exploratory study is designed to frame the isses which are likely to emerge as Congress faces the task of providing the public with necessary information in light of the opportunities and challenges of modern information technology. The issue of public access via electronic means has long term implications for the nature of American democracy and includes a number of specific decisions which Congress must make in the near future. Available technology for electronic dissemination is no longer the primary issue. Congress must now decide when, to whom, via and via what means it should release its information to the public in electronic form. This report is not designed to answer these questions, only to frame the key issues which must underly the short and long term decisions. It is based on the cited references and over thirty interviews with key participants in the congressional information process both within the Congress and from the private sector.

Few individuals either inside or outside of government fail to support the general concept of public access to information on congressional operations and to most of the information Congress collects in the process of performing its duty. The extensive resources committed to publishing the Congressional Record and various committee documents, the free distribution of congressional information through the documents rooms and the Depository Library System, and the tradition of open congressional and committee sessions all speak to Congress' acceptance of its responsibility to provide citizens the information they need to monitor and influence the institution and its Members.

The recent increase in the use of modern information technology (computers, cable television, etc.) provides a number of opportunities and challenges to the traditional concepts of public access. While Congress has spent considerable effort discussing this problem in relation to the executive branch of

government (see the various hearings and reports of the House Committee on Government Operations and the Joint Committee on Printing listed in the bibliography), it has paid less attention to its application in the congressional realm.

There is an abiding tendency for Congress to overly define itself as a unique government entity when it comes to public access. Many of the congressional players readily admit that conceptually there is really no difference between Congress' responsibility to provide public access in the same way as other agencies, but the realities of politics often lead to other policies. The Committee on Government Operations asserted that:

> the issues presented by the electronic collection and dissemination of information are generally similar throughout the Federal Government (1986a, p. 67).

Despite the broad assertion this committee and others focused virtually all their efforts on the executive branch. To some degree Congress believes itself already to be fully open. Added to this perspective is the fact that Congress' information resources are divided among a number of different "fiefdoms" (committees, support agencies, House, Senate, etc.) and no committee wants to take on other entities telling them how to handle "their" information. Since information is widely regarded as a power resource, each of the fiefdoms reacts to the public access question from the perspective of protecting their current power and enhancing it for the future. While all organizations are jealous of their power resources, two factors increase Congress` jealously. First, despite Congress' continuing competition with the executive branch, which is perceived as having direct access to vast amounts of information, Congress has willingly shared its information with them and added to the disparity. Secondly, institutions tend to take on the character of their members. Individual Members of Congress view the dissemination of information as part of their ombudsman role. They expect and encourage constituents to work through them for such things as Congressional Research Service reports and information on government grants. In exchange, they expect a feeling of indebtedness. For many Members, this attitude carries over to their view of the role of Congress as a whole. Congressional sub-units (committees, support agencies, etc.) have developed the same outlook. Congress' lack of a centralized and widely accepted policy concerning public access to congressional information in electronic form has led to a mosaic of varying interpretations and practices (see Levin, 1983, p. 27 for a comparable evaluation of the executive branch). While the introduction of modern information technology into the Congress lacked an overall plan or rationale (see Frantzich, 1982, passim), numerous studies and hearings have assessed the advantages and disadvantages of such applications (see Chartrand and Milevski, 1986, pp. 76-77 for a typical listing). One of the interesting and enlightening aspects of these lists is the notable absence of attention paid to the issue of public access in light of technological change.

## THE CONCEPT OF "PUBLIC ACCESS"

For the purpose of this analysis, "public access" will be limited to direct access by individual citizens and organizations representing citizens, as opposed to indirect public access mediated by the press. It is assumed that policies and procedures which facilitate public access would also make it easier for the press to gather congressional information. Although our emphasis will be on direct citizen access, the simultaneous emphasis on technology enhanced access possibilities means that realistically much public access will be through a commercial and/or nonprofit vendor communicating and often enhancing the raw information either for a direct user fee or subsidized by government funds.

> It is likely that systems installed for providing information to the public are initiated and installed to meet the needs of some organized groups rather than the individual requests of citizens or even companies. Thus, systems might come into being as a result of pressure from organized groups, but when they are installed they are available to everyone. (Kraemer et. al., 1984, p. 6)

## THE RATIONALE FOR PUBLIC ACCESS TO CONGRESSIONAL INFORMATION

> The ability of our citizens to access information about government has a direct bearing on their participation in the democratic process (Joseph Duncan, quoted in U.S. Congress, House, Committee on Government Operations, 1986a, p. 52)

In order to be meaningful participants in the political process, citizens need to know in considerable detail what the Congress has done, and what their Member in particular has contributed so that they can make a reasonable retrospective judgment on election day. Being limited to retrospective information, however, is like "seeing that the horse is already out of the barn." In order for citizen input to improve the decision-making process, the public needs timely and correct information as to what Congress will be doing, substantive information on the issues at hand, and timely monitoring information on the stages a decision goes through. Without such information, the citizen is at such a disadvantage that the concept "consent of the governed" becomes a hollow promise. No one expects every citizen to seek out detailed information on all issues. Citizens speacialize; some monitor narrow areas as individuals, while others support interest groups monitoring those areas which interest them. While Congressmen know that <u>everyone</u> is not watching, the fact that <u>someone</u> may be watching reinforces a sense of responsibility and increases the likelihood of meaningful citizen imput.

## TRADITIONAL METHODS OF PUBLIC ACCESS

An interest in improving public access to information in general and government information in particular is nothing new. As new

approaches to gathering and disseminating information arose, the federal government took an active role in providing funds and institutionalyzing the process of public access. Very early in

> the life of the Republic, the legislature provided for the printing and distribution of both laws and treaties, the preservation of state papers, and the maintenance of official files (Relyea, 1985, p. 236)

The Library of Congress, while created primarily to service the information needs of Congress, has a tradition dating from its creation in 1800 to support public information access. The Government Printing Office created in 1860 gave government the means to efficiently create documents for its own and the public use. Specialized libraries such as the National Library of Medicine (1836) and the National Agricultural Library (1862) have long served the general public. The establishment of the Federal Depository Library System in 1913 (with a much longer tradition of federal documents being sent to state libraries and historical societies) assured a wide geographic dispersion of public documents. The National Technical Information Service, created in 1970, put the government directly in the middle of information access and distribution (see Mason, 1983).

As new technologies came along, Congress, along with the rest of the government, reacted by using them for public access. With the arrival of inexpensive copying technology, Congress provided copying machines in the Library of Congress and other outlets of Congressional information. The Bill Status systems of the House and Senate and the CRS bibliographic citation file are available directly to the public on terminals in the Library of Congress. The Clerk`s office in the House will do computerized bill status searches for the public for a fee. Electronic voting allowed the display of individual votes on wall panels for the public and press in the House chamber. Direct public access to televised floor proceedings via cable television (C-SPAN) engendered a great deal of debate and involved a number of restrictions as to what could be shown, but reflected Congress' accomodation to the capabilities of technology.

In general, although Congress has been a bit slower to adopt new technology for its own use and somewhat more hesitant to use it for public access than many state legislative bodies and some government agencies, Congress has not been intransigent. In most cases Congress has attempted to maintain control of the information by restricting recording (i.e. controlling the cameras for televison coverage, unrecorded votes, etc.), affecting the timing of dissemination, limiting access to much information, or mediating the dissemination of information through its own staff. In a few cases, electronic records have been provided directly to the public through the Government Printing Office (GPO) (see later discussion of dissemination).

Congress as a whole, and particularly individual Member offices, have been much quicker to adopt information technology to

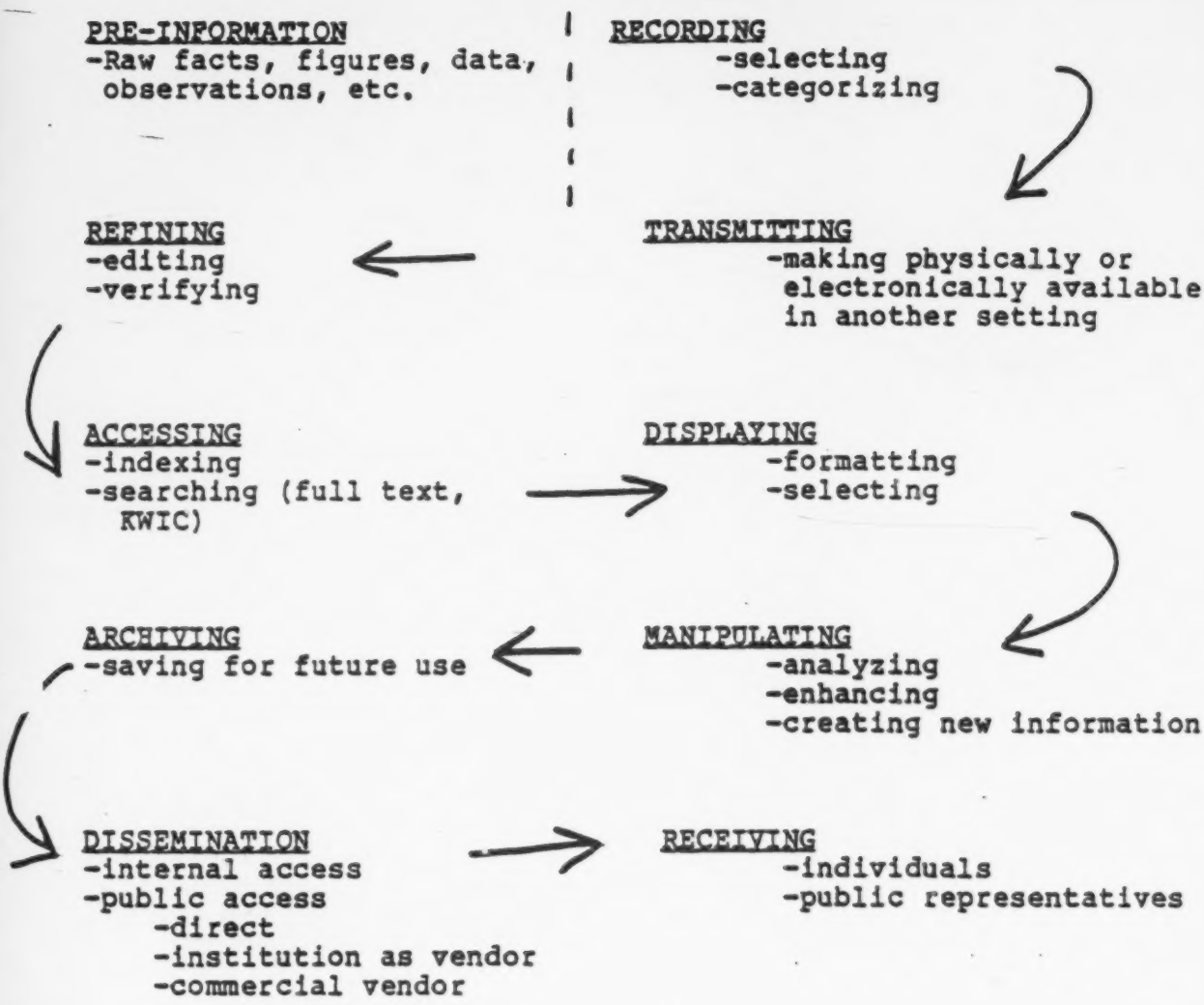
communicate information of their choice to citizens through automated mail systems for the creation of text (word processing) and selective dissemination (targeted mailing lists). A good case could be made for the argument that although automated communications by Member offices service the political goals of Members, it also enhances representation by providing constituents more, better prepared and relevant information (see Frantzich 1982 and Frantzich, 1986).

## THE PROCESS OF INFORMATION CREATION AND DISSEMINATION: THE ROLE OF TECHNOLOGY

### What is "information"?

Information is facts, figures and/or descriptive materials organized in a way which helps one solve a problem. It is something more than the raw material of words, images and facts, and it may be highly refined and synthesized. The processing of information involves a number of steps which may be enhanced by new technologies. Decisions at each of these steps affect the nature and quality of the information produced and may affect the potential for public access. For each of the steps outlined below, we will point out some of the actual and/or potential technological enhancements in the congressional realm and briefly point out some of the public access issues (see Figure 1).

FIGURE 1. THE PROCESS OF INFORMATION CREATION



## The Role of Modern Technology and the Steps in Information Processing

RECORDING: Facts, images, and other data must be recorded before they can be communicated, analyzed and distributed.

Congressional Applications of Recording Technology:
- -Capturing votes on the floor with the electronic voting system in the House
- -Video taping floor coverage in both chambers
- -Using Word Processors to capture thoughts

Public Access Issues
- -Rules for what is recorded (i.e. limitations on the cameras for floor coverage)
- -Impact of the recording procedure on the subject (i.e. different behavior patterns on camera/the increase in recorded votes with the ease of electronic voting)

TRANSMISSION OF INFORMATION: Once captured, the recorded "raw" information is transmitted to others for further refinement.

Congressional Applications of Transmission Technology:
- -Composition of the Congressional Record combining floor transcription and the insertion of voting data
- -Electronic Mail
- -Selective Dissemination of Information (SDI) (transmitting pre-selected materials, such as all the new bibliographic citations on a particular topic to a staff member)

Public Access Issues
- -To what degree should the public have access to the raw material?
- -Who gets on SDI transmissions ?

REFINEMENT: The raw material is refined through editing, formatting, and verifying.

Congressional Applications of Refinement Technology:
- -Word Processing (spelling correctors, insertion of "Revisions and Extensions of Remarks")
- -Electronic Mail (distribution of bill drafts, draft speeches)
- -Provision of bill drafts by the Office of Legislative Counsel

Public Access Questions:
- -Defining the "official" record (Should legislative intent be determined by the electronic tape, the revised printed Record or the televised debate?)
- -Public Confidence (Do competing records undermine confidence?)

ACCESSING: Large documents and datasets are very cumbersome to use. Modern technology allows a variety of search techniques which were not feasible using traditional recording methods. Keyword in Context (KWIC) search, using set theory to cross-reference and identify items, etc. gives new meaning to the idea

of access.

Congressional Applications of Access Technology:
-Searches of the Bill status and SCORPIO bibliographic files by index terms and in some cases KWIC.
-Use of commercial data bases (NEWSWIRE, Juris, Legis-Slate, etc.)

Public Access Questions:
-Should all the "players" have equal access tools?
-Whose interest should be taken into account in creating access tools? (i.e. Should the public be involved in creating index terms and other value added components developed by Congress?)

DISPLAYING THE INFORMATION: New technology provides a number of new formats for displaying information. Computer recording and refining information only makes sense if the electronic product serves as the basis for producing the final product. Computer tapes can be seen as the contemporary equivalent of the printing plate. The availability of the information in electronic format may augment the traditional format or serve as an alternative which can produce a total or partial hard copy printout at will.

Congressional Applications of Display Technology:
-Bill Digests (LEGIS), Congressional Record Abstracts, texts of CRS Issue Briefs, etc. are all available for perusal and printing on a CRT.

Public Access Issues:
-To the degree that electronic formats eliminate traditional formats, individuals unaware or incapable of using the new formats (due the lack of training, equipment or resources) lose access.

MANIPULATION AND ANALYSIS: New technology allows the analysis and presentation of information in new ways. Systems which monitor past events and/or project future ones enhance the tools of congressional decision-makers.

Congressional use of Analysis tools:
-Economic modeling and forecasting
-Monitoring of budget decisions
-The possibility of expert systems which simulate proven decision-making procedures.

Public Access Questions:
-To what degree should the data and assumptions underlying analysis and projection tools be made available to the public?
-Should "Competitive" modeling be encouraged?
-Who should be held responsible for model enhanced decisions?

ARCHIVING RECORDS: While contemporary access to public information predominates, the lack of historical records hampers those wishing to recreate past decisions and provide suggestions for improvement.

Congressional use of technology enhanced archival approaches:
-Short term archival of contemporary records in vaults (duplicate computer tapes/short term archival of floor tapes)
-Additive data bases with upkeep of historical ones (i.e. LEGIS bill status and digest files)
-Long term use of the National Archives
-Vendor and/or nonprofit archival (C-SPAN archival of some material/gift of some material to the National Technical Information Service/Assumption of vendors keeping up data bases)

Public Access Questions:
-What is the long term potential for keeping electronic records in useable form (i.e. Will tapes and disks last for 50 years? Will there be machines available to use them on?)
-Do the embargo rules for access to hard copy documents apply in the same way to electronic records?
-Is the documentation adequate for delayed use?

DISTRIBUTION: While all of the foregoing issues are important, the real crux of the public access issue brought to a head by the availability of technology enhanced records revolves around questions concerning how and to whom the information will be distributed. Many of the issues associated with the various stages in the preparation of information re-emerge at the distribution stage with a vengeance. While the following section will discuss these issues in greater detail, it is worthwhile to briefly summarize the issue at this point.

Congressional use of new technology for the distribution of congressional information:

Table 1 outlines the basic information resources produced by the Congress, a summary of the traditional distribution procedures, and a listing of the ways technology has and/or can be used to distribute the material more widely to the public.

Table 1: THE CURRENT STATUS OF PUBLIC DISSEMINATION OF MAJOR TYPES OF CONGRESSIONAL INFORMATION

| INFORMATION RESOURCE | TRADITIONAL DISSEMINATION | CURRENT AUTOMATED DISSEMINATION ****** ((POTENTIAL APPLICATIONS)) |
|---|---|---|
| Congressional Record | -Hard copy*/purchase<br>-Depository Library | -Automated index (HIS)<br>-Electronic full text (HIS pilot) |
| Bill Status | -published bill status<br>-call up (open to public) | -On-line automated system (in-house and vendors: Legis-Slate, Congressional Quat. Washington-on-Line)<br>-Free mediated public access through Clerk |
| CRS/OTA/CBO/ GAO Reports | -Hard copy requests through Members<br>-Purchase through GPO (especially non CRS Reports) | -On-line, in-house (indexes and some full text)<br>-((full text searching)) |
| COMMITEE AND FLOOR SCHEDULES | -Hard copy<br>-call up to committees and recorded cloak room messages | -On line in-house<br>-Call up in-house and public (using automated file)<br>-Vendor services(Legi-Slate, CQ, and Wash.-on-Line) |
| FULL TEXT OF BILLS | -Hard copy through document rooms | -Commercial vendors using GPO tapes (Legi-Slate & CQ) o optical scanning |
| GOVERNMENT GRANTS | -Hard copy agency reports | -In-house GRANTS system with no public access |
| POLICY MODELS | -Hand calculations | -Numerous in-house simulation and projection models with no public access |
| TELEVISED FLOOR COVERAGE | | -Direct feed to Member offices and C-SPAN<br>-Cable T.V. dissemination by C-SPAN<br>-((Two-way t.v. with public feedback)) |

Table 1 Continued

| | | |
|---|---|---|
| FLOOR VOTE RECORDS | -Hard copy in Record | -Electronic display during vot<br>-In-house electronic record for 24 hours for all members<br>-Electronically created Member vote histories for Member<br>-Vendor provided analysis packages (keyed from Record<br>-(("real time" vote data for ongoing votes)) |
| COMMITTEE DELIBERATIONS | -Hard copy | -Produced from Electronic Tape<br>-Vendor committee voting records (keyed from minutes; Washington-on-Line)<br>-((Video-conferencing)) |
| DIRECTORIES | -Hard copy | -Produced from electronic tape<br>-Independently created commerc directories |
| HOUSE AND SENATE DOCUMENTS | -Hard copy | -Produced from electronic tape |
| ADMINISTRATIVE (Clerk of Hse/ Secy. of Sen: official Member expenditures, staff salaries etc.) | | |
| POLICY<br>-Committee Prints<br>-Committee Reports<br>-Hearing Transcripts | | |
| INTER-OFFICE COMMUNICATION | -Hard copy | -Electronic Mail (no public access after earlier pilot) |

*Hard copy reports are often also avialable in microform

BEST AVAILABLE COPY

Public Access Questions Associated with Distribution:

The following listing of questions serves as an outline for the questions taken up in more detail in the next section.

-What is the legal basis for public access?
-In what form should information be released?
-What information should be released?
-When should the information be released?
-How should the information be released?

## THE ELECTRONIC DISTRIBUTION OF CONGRESSIONAL INFORMATION AND PUBLIC ACCESS

### The Legal Issues

A number of interrelated legal issues place government produced information in a unique status when it comes to dissemination in any form. One set of laws and administrative directives emphasizes how government should REACT to outside requests for information. The long standing principle that government produced information cannot be protected by a copyright places government in a difficult position when it attempts to limit distribution. To the degree that government charges fees for information, these fees are almost universally based on the cost of dissemination, rather than on the market value (see U.S. Congress, House, Committee on Government Operations, 1986 a, pp. 24-30).

A statute (31 U.S.C. statue 9701 [1982]) and an OMB circular (#-a-25 [September 23,1959]) establish the general principle of fees for government services that charges should recover the full cost to the government when a service provides special benefits to an identifiable recipient above and beyond those which accrue to the public at large. There is considerable disagreement as to whether this general principle should apply to information services. Since information is a unique commodity which does not deny more than one person "owning" it at a time, it is hard to argue that the provision of information meets the test of providing information to an identifiable beneficiary (see U.S. Congress, House, Committee on Government Operations, 1986a, pp. 37-38).

More recently (1985) Office of Management and Budget Circular A-130 emphasized that:

> When developing electronic dissemination programs, agencies should ensure that access is provided to each class of users upon reasonable terms, avoid problems arising from monopolistic control, and ensure maximum reliance upon the private sector and take necessary steps for cost accounting and cost recovery (quoted in OMB circular a-130

quoted in U.S. Congress, House, Committee on Government Operations, 1986a, p. 69).

While OMB directives do not apply to Congress in a legal sense, the spirit of such directives challenges Congress to assure that its access policies can be justified relative to those applied to other branches of government.

When it comes to information in electronic form, the positions of various participants often revolve around definitional disagreements. Much of the legislation dealing with dissemination refers to "government publications" which are defined as "informational matter which is published as an individual document" (U.S. Code, section 1901, title 44). This issue can be partially sidestepped by the requirement that the Government Printing Office sell printing plates at a price not to exceed cost plus ten percent (U.S. Code, section 44, title 505). If computer tapes are viewed as the modern technological substitute for printing plates, information which eventually comes out as a printed document would have to be made available in electronic form. Based on the premise that computer tapes are equivalent to "reproducables" (printing plates), the Government Printing Office has been distributing the full text of bills, the Federal Register and a number of other data files on this basis. Those who question such distribution assert that computer tapes, with the value added enhancements of printing codes and text locators, are not the equivalent of a printing plate They assert that given everything that can be done with an electronic record versus the hard copy, providing such information in electronic form would unduly subsidize non-government entities.

Even if the printing plate analogy stands up, this would not cover databases which do not serve as the precursor to a printed document. In Congress, as in a number of other realms, electronic data bases have begun to replace some printed formats. The on-line Bill Status System, for example, has such an advantage of timeliness that the hard copy format finds limited use. A case can be made that in order to play a meaningful role in the governmental process, the public deserves access to such data bases.

More unique to Congress, a distinction is made between personal or political information and "official business." In justifying an expansive view of material frankable by the Congress, Members draw on Title 39 of the U.S. Code which defines "official" business as:

> all matters which pertain to the legislative process, or to any congressional representative function generally, or to the functioning, working or operating of Congress and the performance of official duties in connection therewith.

If such a broad definition serves the purposes of Members of Congress in deciding what they may of their own volition communicate with their constitutnets in the pursuit of their

policy or poltiical goals, a valid argument could be made that an equally broad definition should apply to the types of congressional information constituents should have a right to ask for. Others assert that Congress should and must retain control over its information resources as a method of protecting institutional interests.

Citizens approaching the Congress for information must rely on the voluntary compliance of the body and its Members to gain access to information which is not shared as a matter of course. The petitioner lacks a major resource available to those seeking information from the executive branch. The major laws which apply to executive agencies (The Freedom of Information Act, Government in Sunshine Act and the Privacy Act) all relate to the Administrative Procedures Act which, specifically excludes Congress under the definition of an "agency", although a case can be made that the congressional support agencies should reasonably be included under the definition of agencies. The National Study Commission on Records and Documents of Federal Officials argued that "all institutional records of Congress should henceforth be subject to the provisions of the Freedom of Information Act and the principles of the Privacy Act" (U.S. National Study Commission, 1977 p. 34), but no specific action has been taken to activate the F.O.I. in the legislative realm. Opponents of applying the F.O.I. to Congress point out major constitutional problems for the independence of Congress as an institution should it be required to give up its control over its information (see Relyea,1985, pp. 240-243). Even if the Freedom of Information Act, which is the citizens primary recourse to gain access to executive branch information not distributed as a matter of course, were to be applied to the legislative realm, there is some question as to the degree to which this would enhance the distribution of electronic information.

> Because the Freedom of Information Act and the Privacy Act were developed for application to the departments and agencies, their provisions and interpretation by the courts might not be readily transferable to the Legiuslative Branch context (Relyea, 1985, p. 238).

The courts have not established a consistent set of precedents to deal with public or vendor access to government data files. In SDC v. Mathews (542 F, 2d 1111) the court ruled that computer tapes of a federally operated electronic system were not covered under the Freedom of Information Act. In Legi-Tech v. Kieper (766 F2.d 728 [2nd Cir. 1985], the court questioned the right of the New York state legislature to deny a private vendor access to its legislative retrieval system. Legis-Tech argued that denying them access was unconstitutional in that it allowed government to create a monopoly over public information. The state argued that it had the right to a natural monopoly. A compromise settlement was reached allowing Legi-tech the same access to the raw data as the state, but not the right to use the electronic files (see U.S. Congress, House, Committee on Government Operations, 1986a,

p. 7).

The lack of an overall policy for public access known by all the participants breeds confusion. A citizen approaching the seemingly appropriate sources of congressional information may well get incorrect or conflicting information. In attempting to trace down the source of vendor access to the electonic tapes of full text of bills, the House Information System staff referred this investigator to the Clerk of the House. The Clerk's office asserted that such information was not given out and that they had a form letter telling requestors so. When informed that some vendors got the tapes, they thought that perhaps the Senate was the source of the "leaks" and if not some nefarious deals had been cut. A call to the G.P.O. outlined a relatively long term practice of selling the tapes to anyone at cost.

Taking a more active role, Public Law 90-620, section 1911, requires government in general and Congress in particular to make government publications available for free to the general public. The primary vehicle for this distribution is the Federal Depository Library System which guarantees hard copy and/or microform access points distributed throughout the country. There is no legal reason that this distribution must be done exclusively or primarily in hard copy format (see Russell Shank, quoted in Joint Committee on Printing, 1985, p. 10). New technology no longer requires the user and the raw material to be placed in close physical proximity, a basic principle of the Depository Library approach. With appropriate funding, the Depository Libraries could provide the training and equipment for remote access to databases (see Hernon, 1985, and U.S. Congress, House, Joint Committee on Printing, 1984).

## In What Form Should Information Be Released?

A major issue precipitated by the availability of congressional information in electronic form revolves around the method of dissemination and the relative value of various formats. The availability of information in electronic form is not simply a new storage medium, but rather facilitates new and more efficient methods of access, analysis and dissemination. Computer supported search capabilities have an "unlocking effect" allowing one to take on tasks physically impossible through manipulating the paper copy. "Even when the content of a print file and an electronic one is identical, the electronic information can be used in ways the print can not" (Judy Myers, quoted in the Joint Committee on Printing, 1985, p.12). Other analyses come to the same conclusion:

> The ability to create new subsets of date makes an electronic data base very powerful and much more valuable than a paper catalog. Searches of the data base become easier, faster, cheaper, and more thorough. This ability is so valuable that those unable to employ an electronic search suffer from a significant disadvantage (U.S. Congress, House, Committee on Government Operations, 1986a, p. 6; see

also, State of California, Department of Finance, 1985).

The increased efficiency of those with access to computer searching of government datafiles raises a question of equity. Even if the paper format remains, the user of such a format may well become a defacto information "have not." The Committee on Government Operations conclusion that "public access is a dynamic concept...it is unfair to restrict the public to paper documents" applies to all branches of government (U.S. Congress, Committee on Government Operations, 1986a, p. 10). Similar conclusions reverberate through numerous other portions of testimony and conclusions:

> Federal Government information is important to citizens whether it is in book, microfiche or computer tape format. Information that is only stored in electronic format should not be inaccessible simply because of its format (Carol Turner, quoted in Joint Committee on Printing, 1985, p. 17)
>
> Electronic information systems must preserve public access rights without diminution, and where possible, should extend the availability and utility of government information. (U.S. Congress, House, Committee on Government Operations, 1986a, p. 13)
>
> The question every member of Congress must ask is: will this vast new technology be used in the public interest as Jefferson's (see introductory quote) position demands, or will it be abused to promote one's self-interest or political survival (John Eddinger, quoted in Helm et. al., 1981, p. 256)

New forms of information allow asking new questions and answering old questions in new ways. While the producer of an information product can to some degree affect its use, the transformation capabilities with electronic files allow users to tailor the information more to their needs. The more information Congress provides in electronic form, the less of its activities and information can be hidden from public view.

The fact that access to information in electronic form requires specific skills, equipment and often resources for purchase, those individuals and groups in society lacking such resources lose equity of access. There is a finite degree to which skills and resources separate information "haves" and information "have nots" when dealing with hard copy documents (assuming both groups have access to the document), but the same cannot be said of of electronic access.

No one expects the electronic storage and dissemination of information to replace the provision of hard copy reports. The very existence of an electronic form at least indirectly affects the nature and existence of the hard copy version. In light of more useful electronic versions enhanced with sophisticated search capabilities, there will be a reduced demand for the

hard copy. To the degree that they cannot shift their capabilities to producing electronic products, producers and disseminators of the hard copy (primarily G.P.O) will be faced with reduced revenue, excess personnel and difficulty in justifying capital expenditures.

Reduced volume of demand will drive up the unit cost of hard copy reports and reduce public access to information in that form. Reduced demand may also encourage cutting back on hard copy documents. For example, in the past the Bill Digest produced by CRS came out in hard copy a number of times each year, the popularity of the automated system reduced the demand for the hard copy which is now published only once a year. Without widespread access to the electronic version, the public has less timely access which translates into less access.

Those organizations in society which have gained their power and prestige through the ability to access information using traditional methods will lose power. Relatively easy access to congressional information may hurt the political parties and well established interest groups since the "connections" and/or large research staffs for which they are known will have less meaning. This could make room for additional narrow guaged factions and ad hoc groups (Kraemer et. al, 1984, p. 29). The capacity to easily form and reform electronic information could encourage congressional units to intentionally speak more to sub-groups of the population with tailored information products than to the public as a whole, much like Members use targeted mailing techniques with interchangeable paragraphs. In this continuing disaggregation of the political process, the general public interest can be lost.

What Information Should be Released in Electronic Form?

While an easy answer would be to say everything should be shared, that is too simplistic. A more reasonable position would argue that, at a minimum, information traditionally distributed to the public in a particular form should be made available to the public when it becomes available in electronic form. This is especially true when the electronic form either replaces or is so far superior to the traditional form that access to that form would put the citizen at a disadvantage relative to others with whom he or she is competing.

Despite a commitment to public access, a number of types of information created and/or used by the Congress have traditionally fallen outside of the realm of that material to which the public has a right of access.

(1) Internal Administrative Information: Detailed personnel records, internal budget monitoring, etc. probably fall outside of the realm of information the public could expect to get in any form. The line becomes hard to draw when it comes to specific inclusions and exclusion. Congress regularly reports salaries and

the accounting of office expenditures in the reports of the Clerk of the House and Secretary of the Senate. Electronic access to this material may well be of interest to researchers and/or the public at large.

(2) Commissioned Research: Research done for Members and/or committees by the Congressional Research Service, the Office of Legislative Counsel and other support agencies (GAO,OTA,CBO) is generally not available directly to citizens. Some of this material becomes part of the official committee records, while most Members will acquire copies of the more widely disseminated reports for constituents. The Joint Committee on the Library recently emphasized that the electronic databases prepared by CRS were exclusively for the use of the Congress (March 21, 1981 policy statement referred to by Daniel Boorstin, Librarian of Congress, quoted in Joint Committee on Printing, 1985, p. 78). A number of CRS staff members pointed out that if CRS reports were readily available to the public, some of them would be written differently and may be of less use to the Congress. On the other hand, University Microfilms is already distributing "pirated" hard copies of CRS reports causing the staff to cringe since the versions distributed by vendors are often out of date.

(3) Decision Tools: Congress uses a number of commercial data bases and modeling tools to carry out its task. While lack of direct access to these tools puts the citizen at a disadvantage, there are practical and political reasons for not making them available. In some cases, the Congress has no proprietory right to the tool and would be breaking their contract with a commercial vendor by distributing them to the public. For those decision tools (simulations, analysis and prediction models) owned by the Congress, there is insufficient staff to support widespread access. In this respect, Congress is in the same postion as other government agencies. As one study concluded:

> We are unaware of a single instance where the same models, assumptions and date were used by both an agency and their opponents in a decision-making situation. (Kraemer et. al, 1984, p. 22)

(4) Individual Member Records: Individual Member offices are conceived of as small independent businesses with complete and final control over the information collected by their staffs. While offices must report details of their expenditure of government funds, information sets such as mailing lists, communications files, research and analysis, etc. have never been considered in the public domain.

(5) Closed decision-making sessions: Although the trend has been toward more and more open committee sessions (see Ornstein et. al.1984, p. 115), Congress has always retained the right to close meetingd, and issue no reports, when such action would, in the Member's eyes, promote national security and/or more effective decision-making.

## When Should Electronic Information Be Disseminated?

Congress has generally reported to the public after the fact as a means of publicly justfying behavior, rather than seeing the informing process as a method of engaging citizen interest. Although some "heads up" information (calendars and schedules) provide help in predicting upcoming events, much congressional information only becomes available after the key decisions have been made. Electronic information gathering and dissemination reduce the time between information recording and dissemination. Some applications such as television coverage of the House and Senate move Congress into the "real time" provision of monitoring information. While it would be technologically possible to simultaneously provide outside access to other information recording (i.e. floor voting, keypunching the Congressional Record, etc.) the loss in verifying the information would be a major risk. The debate over electronic dissemination of the Congressional Record is complicated by the fact that the electronic version does not have the last minute corrections used to create the final document, and a corrected electronic version is not available for a number of days--thus reducing its utility.

In most cases, the issue is not so much real time access as the timeliness of updates. In general, electronic information decreases the amount of "stale" information. From a political perspective, either by denying or delaying access Congress has been able to shield its Members from public scrutiny. By the time much of the information arrived, the issue had been decided. More relevant and timely information would give the public the raw material for affecting current policy, but would reduce the "cooling off" impact of time.

## How Should Congress Go About Providing Electronic Information to the Public?

While considerable difference of opinion exists as to the particular material Congress should make available to the public, even more controversy exists on the particular mechanism for providing that information.(See Appendix 2 for a description of potential dissemination scenarios.)

A continuum with four discrete "zones" summarizes the positions individuals take concerning the government role in providing information to the public.

### I. INFORMATION AS A BY-PRODUCT

This position asserts that in carrying out its tasks government naturally creates information. Appropriate laws exist requiring government agencies to report their activities to the public. Since government information cannot be copyrighted, any information with a market can be disseminated by private enterprise for a profit. Government should pay little or no

attention to the information market and have little concern for how and why its information is disseminated. This position gives little guidance concerning the way in which government should deal with information supported by modern information technology. To the degree that new information products are required by the day to day demands of the governmental units, government units are encouraged to increase their efficiency through its use. Outside access to such material should be allowed to the degree that such access does not increase costs.

Under such a system, it would be up to private vendors to assess the market and determine whether commercial dissemination would be viable. The costs of preparing the databases for dissemination and adding value to the government information through searching and manipulation software would be borne directly by the vendor and indirectly by the customer.

Turning dissemination over to private vendors has a number of supposed advantages and disadvantages.

Supposed Advantages

1. Congress can "wash it's hands" of the information once it is produced and not be expected to support the access software nor vouch for the accuracy of the data.

2. Vendors can enhance congressional data files with information that in-house units find it politically unacceptable to include (i.e. voting records).

3. Government does not get into the position of competing with the private sector (see U.S. Congress, House, Committee on Government Operations, 1986a, p. 65).

4. The marketplace has a built in mechanism for rewarding efficiency and accuracy, while competition produces a more realistic and generally lower pricing structure (see Timothy Muris, Director, Bureau of Consumer Protection, Federal Trade Commission, quoted in U.S. Congress, House, Committee on Government Operations, 1982, p. 25).

5. Vendor supporters argue that private enterprise has a better record in producing quality products than does government, and that they have a large stake in their reputation for delivering a product. In periods of budget cutting, information services are some of the first to go for government agencies, while vendors have a stake in maintaining complete data bases over time.

Supposed Disadvantages:

1. Congress loses control over its data and may find it used for inappropriate purposes. To the degree that electronic records are not identical with the printed records,

confusion and embarassment could develop in determining the official record of Congress (see earlier discussion of problems with the Congressional Record tapes).

2. Citizens end up paying twice, once for the creation of the data with tax funds, and once to buy the enhanced version back. Less well endowed citizens and groups may lose access.

3. Vendors are selective about the information they disseminate:

> The private sector does not meet the need for a democratic government to inform its citizens of its actions and activities. Vendor distribution is selective in several ways. Vendors first select the information their market will support...Vendors do not select files for their value to citizens who are interested in monitoring the activities of Government (Judy Myers, quoted in Joint Committee on Printing, 1985, p.13).

4. Allowing vendors to distribute enhanced electronic versions of hard copy documents now produced by the Government Printing Office could "adversely affect the present GPO work force" (memo from Joint Committee on Printing staff member to Senator Charles Mathias Jr., June 11, 1986) and create a situation where government was "going into competition with ourselves" (Senator Wendell Ford, Senate Committee on Rules and Administration Business Meeting, July 24, 1986).

5. Increasing the ease with which citizens and interest groups can monitor and evaluate Congress will increase the pressure upon both the instituion and its members. As a staff member of the Joint Committee on Printing phrased the issue:

> Does the Congress wish to afford those who wish to influence the Congress and the public greater ability to do so by providing an electronic tool that facilitates that effort? (memo to Senator Mathias, June 11, 1986)

## II. GOVERNMENT SUBSIDY FOR PUBLIC INFORMATION

Those who hesitate to allow private vendors to dominate the dissemination of congressional information in electronic form, point out that the marketplace sorts out those products on which a profit can be made from those without sufficient demand. Certain types of information created by the government are important for reasons which go beyond their value in the economic marketplace. Many would argue that government has the responsibility for assuring that such information is provided. Furthermore some individuals and organizations lack the resources to access the most efficient forms of government information, and many feel that there needs to be an "information safety net" for

them.

Two types of government subsidies could encourage the broader dissemination of more electronic data to more individuals and groups.

(1) User subsidies: It can be argued that the government should be the "provider of last resort". For those products not commercially viable, the government could become a vendor itself, reserving the commercially viable products for the private sector. To protect individuals lacking the resources for access, a number of approaches are possible:

- The National Depository Libraries or regional data centers could be provided the resources to serve as free disseminators of commercial data bases to the general public. This may require increased funding and/or special arrangements with the equipment and data vendors for tax incentives or reduced fees. The cost factor may be less significant than it first seems since, storage and staff costs for keeping up the current hard copy documents may be enough to offset vendor fees. In some cases, vendors could be expected to provide public access in exchange for their free access to the original data. An ad hoc committee organized under the auspices of the Joint Committee on Printing brings together congressional staffs and depository librarians to study and discuss the potential and problems of electronic dissemination of data through the depository library system. They are at the stage of initiating a number of pilot projects, primarily, but not exclusively dealing with executive branch information (see U.S. Congress, House, Committee on Government Operations, 1982, p. 65 and U.S. Congress, Joint Committee on Printing, 1985, pp. 6-7).

- To some degree, free public access to in-house data bases in reading rooms would assure a baseline of access (such as current public access to the bill status system through the Library of Congress reading rooms).

While complete public access remains a valuable goal, there is clearly some point beyond which the government cannot guarantee absolute equality in access. There have always been information "haves" with the motivation, awareness, resources and skills to better utilize the information available and "have nots" lacking those characteristics. The role of government in the electronic data age is to make sure that at a minimum the gap is not increased.

(2) Vendor subsidy: It can be argued that government should go beyond the passive role of creating information and allowing it to be provided by a vendor who feels they can make a profit on it. It may be incumbent on government to encourage vendors to disseminate information by assuring them a market, providing more marketable information, or through indirect tax subsidies (see

U.S. Congress, House, Committee on Government Operations, 1982, p. 66). The objection which of course arises involves the degree to which government should subsidize commercial ventures.

In some areas, Congress may be able to cut costs by contracting out its information needs to private vendors and in the process guaranteeing them a market for information resources which could not compete in the marketplace. While cost cutting is appealing, a number of observers warn that such arrangements may curtail public access (see Representative Glenn English, Congressional Record, 1984, p. H1615).

## III. COST RECOVERY

Since information is a commodity with value, some would argue that government should be able to recover its production costs or to allow vendor production of information needed by the government in exchange for free access to the data created. The dramatically increased costs of information creation and management in the age of automated information processing puts a strain on budgets and encourages such cost recovery. OMB Circular A-25 asserts that when a product is provided to an identifiable group, the government should recover the full cost for rendering that service, including the direct and indirect costs (see U.S. Congress, House, Committee on Government Operations, 1982, p. 72). The Government Accounting office argues that it is improper to release large amounts of data below cost to a commercial entity since

> failure to recover the cost of bibliographic services, whether directly or indirectly supplied, results in a general taxpayer subsidy to non-Government users of these services (Government Accounting Office, 1979, p. 27)

Two different types of cost recovery are discussed. Charging fees to vendors which approximate real costs sounds appealing, but remains difficult to do since vendors assert their rights to public information at the same rates as the general public. Raising fees for everyone would reduce access by the general public.

Indirect cost recovery may be approximated by allowing congressional units to acquire commercial services from vendors for no payments in exchange for access to congressional data. This assumes that the congressional unit has something of value to exchange. In such arrangements, competing values often come into play, the value of congressional information goes up to the degree that routine access is limited. If the Congress is the sole provider and not subject to the demands of open public access the government can charge the maximum of what the market will bear, but the public may lose out. Making a "sweetheart" deal with a vendor giving them exclusive rights to the information will raise the value of the information to the government, but reduce public access. Low cost, or free access to

all vendors or the public keeps the price to the user low, but reduces the ability to recover costs. Recent committee hearings took the Patent and Trademarks Office to task for arranging a deal with a vendor advantageous to the agency, but failing to take into account sufficiently the needs of the public (see U.S. Congress, House, Committee on Government Operations, 1986a, p. 18).

## IV. PROFIT MAKING: THE GOVERNMENT AS A VENDOR

If others make money from either the kind of information the government has, or from the very information itself, some would argue that government should go directly into the marketplace, provide the service, and make a profit which can help subsidize other governmental activities. There is some precedent for such an approach, MEDLARS, the National Library of Medicine data base is sold by the government at fees and in a manner totally analogous to private vendors.

Supposed Advantages:

1. Becoming a vendor would allow Congress to maintain complete control over its data and influence its use.

2. A number of congressional units feel that having a marketable "product" would relieve them to some degree of the hassle of fighting for their piece of the congressional budget. Having a more predictable budget would allow more long term planning and some independence from political pressures.

3. Supporters of G.P.O. argue that their entry into the electronic dissemination market would reduce their overall costs for all products, saving the government money and in the process increasing public access.

4. Preserving a government role in the provision of congressional information is consistent with the American tradition of viewing information as "having a public value and assert[ing] the public interest inherent in a free flow of information" (Levin, 1983, p. 135). Some feel that

> the Reagan administration has a strong, ideological bias in favor of the private sector and advocates rigid interpretation of federal procurement policies. This philosophy, combined with pressure exerted by groups such as the Information Industry Association (IIA), is leading to a sharp curtailment of government information available to the public (Levin, 1983, p. 135).

Supposed Disadvantages:

1. Considerable concern arises over government competing with private enterprise. OMB Circular A-76 confirms that in a democratic free enterprise system, the government should

not compete with free enterprise (see U.S. Congress, House, Committee on Government Operations, 1982, pp. 3,40,72).

The problem of the government becoming a vendor is greater when:

-Government services subsidized by tax dollars can undersell the product of private enterprise and can potentially drive it from the marketplace
-Government produces a duplicate product to that already in the marketplace
-Government production of a product deprives private enterprise of the government as a potential client
-The presence of the government in the marketplace discourages innovation by the private sector
(See Robert S. Willard, Vice President, Information Industry Association, in U.S. Congress, Committee on Government Operations, 1982, p. 71)

2. Full reliance on the government to provide information is more dangerous for electronic information since it is easier to control access and limit the ways in which it can be viewed (see U.S. Congress, House, Committee on Government Operations, 1986a, p. 2).

3. Most congressional information systems were not designed with public access in mind. They are not particularly "user friendly" and lack the kind of documentation necessary. Bringing them up to commercial quality would require a major commitment of resources. Some opponents go further to argue that government agencies in general and the G.P.O. in particular does not have the skills or resources to produce a commercially viable product.

4. The role of vendor may be incompatible with the expected performance of congressional units in supporting their prime customer, the Congress. To the degree that government attempts to make a profit from its information services, it faces considerable pressure to use the most up to date information technology, and provide value enhancement to its information which may not be needed by governmental users, but would make the product more desirable in the marketplace.

> In this rapidly changing technological environment, it makes little sense for the government to invest to develop systems which are likely to be obsolete before completion, and which the private sector has already developed (Senator Dennis DeConcinni, letter to Senator Charles Mathias Jr., September 18. 1986).

What ever the level of technological sophistication, demands on any information system made by public users may well reduce congressional response time to an unacceptable level.

Although it is intuitively appealing to promote a broad based general policy on access to congressional information in electronic forms, the wide variety of information and the range of congressional sub-units providing information lead to the conclusion that each of the four types of distribution will be used for some information products.

## EVALUATING ACCESS

Much is made by those cautioning a "go slow" approach to public access to electronic forms of information that the public is not very interested in such access. They rightfully point out that the key proponents are the vendors seeking a profit and organized interests seeking to improve their power position (see Russell Roberts in Helm et. al., 1981, p. 65). The counter argument to these assertions, points out that this has largely been the case no matter what the format of the information provided by the Congress. The National Rifle Association with its large staff of legislative analysts could outsearch the average citizen or even its less endowed competing interest groups through hard copy materials although not to the degree that electronic access compares with hard copy access. A case could be made, that the cost of electronic access would burden less endowed interest groups less than to expand their staffs to compete equally with hard copy documents. Shifting from concern for individual citizen access to interest group access does reflect the reality of American poltiics that organization is the way for average citizens to expand their political power, but does not speak to the problem of the little old lady in Keokuk looking up congressional votes in a depository library. The equity of her access will decline unless some form of subsidy such as providing Depository Libraries with electroninc search capabilities emerges. Unfortunately, the traditional marketplace mechanisms do not take into account those who cannot pay, those individuals and groups with infrequent interest in a product, or products with limited demand.

Those in and out of Congress less concerned about public access are quick to point out the low level of public interest in congressional information in any form. They assert that the situation would not change much with new access methods.

> Either lacking the time or inclination to wade through and interpret "raw" government documents, Americans have come to rely on receiving the government information they need to carry out their daily life from sources that can explain and interpret government policies (Russell M. Roberts, quoted in Helm et. al, 1981, p. 58).

Some counter evidence is emerging from the analyses of the C-SPAN audience. Although drawing heavily from those already quite interested in Congress, these viewers seem to receive an

additional impetus for involvement through their viewing (see Frantzich 1982 and 1985).

The debate over the frequency of access may well miss the real point. The utility of public access to congressional information does not lie primarily in the frequency of its use nor in its commercial value. In fact, a cogent argument could be made that regardless of use, the procedures allowing open access increases the responsibility of public servants aware of the fact that their behavior might come under public scrutiny. Frequency of use should clearly not be the criteria by which Congress decides what information it will provide in what form. The ability to easily find necessary information at infrequent intervals is less important than easy and frequent access to less important information. Whatever the case, Congress alone should not be able to determine which information it deigns to share with the public.

The arrival of electronic forms of information processing challenges the Congress to come to grips with its information dessemination policies. As much as possible, the uncoordinated and potentially conflicting decisions by congressional sub-units need to be replaced with an overall policy framed through the interaction of Congress, current users of congressional information, and potential users. The established policy should provide for the fullest and most equitable public access possible, erring on the side of too much rather than too little access.

## APPENDIX 1 SOME REMAINING ISSUES

This analysis has focused primarily on the dissemination of congressional information in electronic form. Although mentioned, television coverage of Congress was slighted in favor of access to databases since the issues associated with general television coverage have received considerable debate and have been largely settled. More narrow issues and specific applications of television to the congressional process do deserve more attention. For example, the potential for narrowcasting via cable television systems provide congressional sub units (committees, caucuses, individual Members, etc.) with the potential of targeting and communicating with desired audiences.

Little attention has also been paid to the potential of new technology to facilitate the "public" side of the public access question. Allowing citizens to communicate with Congress via electronic mail could activate a whole new segment of the population, while giving political advantage to those groups and individuals with the capacity to communicate in these ways. Video-conferencing would allow the distribution of congressional information and the provision of citizen feedback. Two-way video-computer communications could allow "instant referenda" and guidance to Members of Congress, while opening a number of important issues as to how congressmen should best receive direction.

Since information processing is the "core technology" of the Congress, it is important to remember that technological advanaces in information and communications will almost by definition present challenges to the Congress and its way of doing things.

## APPENDIX 2: SCENARIOS FOR PUBLIC ACCESS

A number of scenarios for citizen access are possible utilyzing the various forms of electronic information transfer. Each presents its own unique advantages, disadvantages and implications. It is probable that no one scenario will dominate, but rather,for citizens with different needs, different scenarios will be feasible.

### "THE ELECTRONIC COTTAGE" SCENARIO

For citizens with the necessary equipment, training, free time and interest, new technology will allow monitoring and/or influencing the Congress from their home or office. By tapping into an electronic bulletin board or scheduling data base the citizen will receive "heads up" information on upcoming congressional decisions. Updating themselves on the issues through substantive data bases, the citizen forms and/or builds a case for a particular position. If the issue generates enough personal interest, they may seek out targeting information such as the names and backgrounds of committee members, or an in depth profile of their own member's voting behavior, campaign contribution records, etc. from a commercial data base. Anticipating an upcoming decision, the highly interested citizen could solicit expanded public support through an electronic bulletin board, or through electronic mail to a pre-defined set of potential supporters. Prior to key decision points the citizen would send traditional hard copy or electronic mail messages created on a word processor using an electronic "cut and paste" capability to insert quotes, illustrations and/or data drawn from various data bases. As the deliberations proceed, the citizen regularly scans a full text retrieval of all bills to keep up on amendments and riders. During the final voting stages the citizen gets "real time" monitoring capability through watching the debate on C-SPAN, and receives a direct electronic feed of the ongoing vote from a commercial data base. Shortly before the vote the citizen becomes part of a pre-organized barrage of electronic mail messages encouraging targeted members to support or oppose the impending vote "because we are interested and watching what you do". Using the direct feed of voting data, the citizen does an instant analysis to identify likely targets for an immediate electronic mail message as the vote is taking place. After the vote, the citizen searches the Congressional Record to identify future supporters and to create a personal data base of quotes on issues of interest. As new congressional data bases become available (i.e. committee hearings and committee votes), the citizen in his electronic cottage would have fingertip access to enough information to understand and interpose his or her feelings at even more stages of the legislative process.

### ADVANTAGES

The advantages of such a system relate largely to enhancing the democracy of the political system by increasing the competency of

individual citizens in understanding and affecting decisions in which they are interested. Whether or not their increased information led to direct action, the potential for close public attention would make elected officials more sensitive to public concerns and attempt to anticipate them.

DISADVANTAGES

Increasing the immediacy of available information and increasing the threat of direct citizen intervention could well change the nature of the legislative process and reduce the quality of legislation. If it is true that "there are two things one should not see made, sausage and legislation", increasing public access could reduce public confidence as inconsistencies become more clear.

Secondly, although "citizen access" is hard to oppose in the abstract, legitimate questions as to "who" should have access to "what", and "when" remain. Relying completely on individual citizens with the necessary access skills and resources dramatically limits and distorts the definition of citizenship and exacerbates the gap between the information "haves" and have nots". In a related vein, although it is hard to oppose access to raw material and consequences of public decisions, virtually "real time" access may increase the dissemination of incorrect or incomplete information and unduly disrupt a reasoned decision-making process.

## THE INTEREST GROUP/PRESS MEDIATING SCENARIO

While each of the above methods of access could conceivably be made available to individual citizens (and many currently are), it is more realistic to assume that organized groups of citizens working through professional public affairs staffs,in conjunction with a better informed press,would serve as the primary conduits for translating legislative information into a form digestible by the general public. The impact of more direct electronic access to congressional information would be to reduce the human resources necessary for information gathering and increase the capability for more timely and sophisticated analysis. Assuming that most electronic congressional information would come from commercial vendors, organized groups or commercial press operations would be more likely to have the necessary resources and be able to spread the information more widely than interested individual citizens. Although the information gap between groups with different levels of resources will remain, public access would probably increase.

Organized groups would also have the expertise and in-depth interest to utilize more of the raw congressional data to create alternatives and build a case for a particular position. Rather than accepting or rejecting the consequences of various projection models, full access to the logic, assumptions and data behind models would allow group representatives to develop counter models and question the projections of others.

Creative use of electronic data would allow types of analysis too complicated using traditional means. For example, in determining a lobbying strategy, electronic scanning of voting histories would allow more specificity than the traditional rating system of "friends" and "enemies". While a Member might oppose a group's position on most issues and thus be written off, more precise analysis could determine the kinds of votes for which it is feasible to seek out that Member's support. Patterns of committee or amendment support and final passage opposition could determine a new influence strategy, while analysis of voting blocs could determine the types of Members influencing each other. This data would then suggest which Members to use as the front men in coalition building.

Some new technologies such as tele-conferencing would be more likely if the primary route of citizen access were through organized groups, since such groups have the infrastructure to develop these applications.

For the press, more efficient access to congressional information would allow them to go beyond the basic information gathering and present more in-depth analyses. Just "gathering the facts" could be replaced with putting the facts into perspective.

ADVANTAGES

Relying on the press or interest groups as intermediaries is probably more realistic than assuming that direct citizen access would spread information more widely. While all groups of interested citizens are not organized and those that are vary dramatically in resources, the costs of electronic information, particularly with some congressional subsidization or control, would probably be less discriminatory than the existing system. The $20,000-$30,000 price tag on a comprehensive legislative monitoring database is more feasible for a less endowed interest group, than adding the half dozen or more staff members required to gather equally comprehensive information.

DISADVANTAGES

A major issue involves the degree to which congressional information should be available to the public, and the degree to which the decision-making process should be transparent. Easing the process of monitoring Members of Congress reduces the blanket of insulation which may allow better and more reasoned decisions. Virtual "real time" public access to all stages of the congressional process would reduce the tempering effect of delayed and limited access, and put Members in line for increased and more effective public pressure. If Congress worked in a vacuum, this criticism would be more difficult to overcome, but to a large degree the "cat is already out of the bag" for some groups and individuals who already have the staff, expertise,

and/or access to existing commercial databases. Congress' stake in encouraging easier access to electronic congressional information may well involve increasing the representativeness of those with the capacity to monitor Congress closely at the cost of putting themselves in line for increased public scrutiny.

## THE LITTLE OLD LADY FROM KEOKUK SCENARIO

For the average citizen with intermittent interest in Congress, sophisticated, immediate and full retrieval of electronic congressional information is neither necessary nor desired. The type of citizen who irregularly takes an interest in a specific topic and is accustomed to dropping into the Federal Depository Library could find their access dramatically changed by access to electronic information. Given the costs and training involved, it is unlikely that many citizens with intermittent interests would have direct access. More likely would be a mediated usage pattern which might even be transparent to the user. The citizen who drops by the library to search out a congressional debate or seeking the content of a piece of legislation would go to a librarian who could search for the material and print out a hard copy of that which is desired. To the degree that depository libraries have full access to the full range of commercial and governmentally supported data bases, the citizen would receive the information more quickly, precisely and in a more usable form. Not all information would need to be available on line. Using CD-ROM (Compact Disk-Read Only Memory) technology archival material could be accessed relatively inexpensively.

## ADVANTAGES

Assuming that the other two scenarios play out to some degree simultaneously with this one, public access to electronic congressional information via free access to the Federal Depository Library System (or perhaps through newly created data centers), would serve as an information "safety net" reducing the gap between information "haves" and information "have nots". Public access is largely a sham unless all citizens have access to the basic information withou regard to resources. Congressional offices may wish to expand their information service activities by enhancing their electronic access and distribution capabilities, either directly or through the creation of a public electronic congressional information service center. Establishing an "800" telephone number request line, or fully automating district office access to electronic databases would allow Members to claim credit for the services rendered.

In the long run, complementing and in some cases replacing hard copy access to congressional information through subsidized public access could save money, since Depository Libraries would require less resources for cataloging and storage. At the production stage and distribution stage, cost savings could also be significant since either governmental database maintenance or vendor support would probably not be as costly as the production

and distribution of hard copy documents.

DISADVANTAGES

For the citizen accustomed to browsing hard copy documents and indexes, removing such sources from direct access could be intimidating and disconcerting. Given the hardware and personnel requirements, electronic distribution for most citizens would require travel to a Depository Library, not a convenient option in some congressional districts. For such citizens, it will be necessary to maintain hard copy options and/or increase the number of information distribution centers. To the degree that electronic access is either the exclusive method, or is so far superior as to make other methods obsolete, Depository Libraries will have to accept a renewed commitment to public access. Coming at a time when many libraries are increasing their security and limitimg access to their own students and employees, libraries will have to balance the advantages of depository status against the increased responsibilities. As databases become more user friendly, it may be possible to use existing federal facilities such as post offices as distribution points. As citizens become more accustomed to paying for information and vendors develop accounting methods for low volume use, it may be possible to establish user fees for some government data similar to xeroxing charges which most users accept. Information "vending machines" complete with quarter slots are not out of the question.

As the various scenarios play out simultaneously, it will be important for Congress to make sure that access decisions are not purely technology driven. That which is "possible" is not necessarily "desirable". There is a public stake in allowing flexibility of access and in maintaining for all citizens enhanced rather than diminished access in the electronic information age.

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